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09/178,837	10/26/98	KADY	D GC-334

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EXAMINER

HORNSBY III, A

ART UNIT

PAPER NUMBER

2735

DATE MAILED:

07/17/00

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/178,837

Applicant(s)

KADY ET AL.

Examiner

Alton Hornsby III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 October 1998.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 14-18 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-13 are drawn to an operating control device for equipment requiring the input of a user code, classified in class 340, subclass 825.31.

II. Claims 14-18 are drawn to a locking device for use on bicycles, classified in class 70, subclass 233.

2. The inventions are distinct, each from the other because of the following reasons:

3. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are unrelated because invention I (operating control device) is not disclosed as being capable of being used with invention II (bicycle lock) and the two inventions have different functions.

4. During a telephone conversation with Sheldon H. Parker, Esq. on 13 July 2000, a provisional election was made electing without traverse to prosecute the invention of Group I, claims

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1-13. Affirmation of this election must be made by applicant in replying to this Office action. Claim 14-18 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-8 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegle et al. (U.S. 6,005,489) in view of Oh (U.S. 5,231,310 - disclosed in applicant's IDS).

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8. Regarding claim 1, Siegle et al. teaches an operating control device (code signal transmitter 1 in Fig. 1) for use with equipment having an exterior case, a power source (power supply 21 in Fig. 1 or battery 9 in Fig. 2), an activation member (motor 13 in Fig. 2), and a driver member (drive unit 15), said control device having an input device (pulse generator 2 in Fig. 1), a control member (transmission section 5), said control member being in communication with the input device the power source, the driver member, and the activation member (See Figs. 1 and 2), wherein the control member prevents operation of the equipment by preventing power to transfer from said power source to the driver member without transmission of a user code, the user code enabling power to flow from the power source to the activation member to the driver member, thereby activating the equipment (Col. 1, lines 22-31, Col. 3, lines 15-50, and Fig. 3). Siegle et al. fails to specifically teach an input device permitting input of user identification. Oh, in the same field of endeavor, teaches a locking system for an electronic appliance comprising means for inputting a password representing a user identification code via keys 52-55 (Fig. 1; Col. 5, lines 59-62). The use of the input means makes it easy to change user identification codes thereby enabling use of the appliance if a user code is discovered by another party or forgotten (Col. 5,

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lines 59-68 through Col. 6, lines 1-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the input means of Siegle et al. to include input keys for inputting a user identification code as taught by Oh because Siegle et al. teaches an input means for transferring a user code for permitting selective access to an electronic appliance and Oh suggests that the security of the appliance would be enhanced by allowing user modification of the user code.

9. Regarding claims 2-4, Siegle et al. fails to teach a readout panel providing a status of the operating control device (claim 2); a programmable timer which communicates with the control member and enables power to flow from the power source to the driver member for a predetermined time period with the time being entered at the input device (claim 3); or a clock which activates and deactivates the time based on user input (claim 4). Oh discloses a clock 32 (Fig. 1), a programmable timer (Fig. 1), and a readout panel (LCD display 40) in an operational control device for an electronic appliance. The timer is programmable via keys 52-55 of the user input device and along with clock 32 controls the flow of power to the controlled electronic appliance for a predetermined time period (Col. 3, lines 52-68 through Col. 4, lines 1-60). Readout panel

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40 provides a status (by displaying the time that the controlled electronic appliance is active) of the operating control device (Col. 8, lines 8-68 through Col. 9, lines 1-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the input device of Siegle et al. to include the programmable timer, clock, and readout panel of Oh because Siegle et al. teaches a system for operating an electronic appliance for a predetermined time period (Col. 1, lines 22-38) and Oh teaches a system in which the predetermined time period for operating an electronic appliance can be selected by the user thereby giving the user more control over access to the electronic appliance.

10. Regarding claims 5 and 6, Siegle et al. teaches that the operating control may communicate with the equipment over a cable connection (which would have to contain electrical wires). Further, the cable connection contains the control member (transmission section 5) in a solid material thus making the control member and the wires inaccessible (Fig. 1; Col. 2, lines 36-40).

11. Regarding claims 7 and 8, Siegle et al. teaches that the operating control device is a hand-held electric power tool (Col. 1, line 5).

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12. Regarding claim 11, Siegle et al. teaches that the equipment is switched into an inoperable mode after a certain time or operation interval until the code signal is again received (Col. 1, lines 22-30). Thus, Siegle et al. would necessarily have to contain a delay timer in order to measure the time or operation interval to switch the equipment into an inoperable mode.

13. Regarding claim 12, Oh teaches a locking device (password keys 52-55 in Fig. 2A) for the exterior case of a control device which prevents nonuser access to the device (Col. 5, lines 59-68 through Col. 6, lines 1-33).

14. Regarding claim 13, Siegle et al. teaches a solenoid (power circuit 12 in Fig. 2) which connects power source 9 to activation member 13 (Col. 2, lines 50-60).

15. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegle et al. in view of Oh and further in view of Woodall et al. (U.S. 5,600,723 - disclosed in applicant's IDS). Regarding claims 9 and 10, Siegle et al. in view of Oh teaches all that which is recited in the aforementioned claims except for a fuel pump in which fuel is prevented from flowing from a gas tank to an engine via a shutoff valve. Woodall et al., in the same field of endeavor, discloses a secure electric fuel pump system (Fig. 1) in which



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fuel is prevented from flowing to the engine unless a correct code signal (key identification signal) is received in which case the fuel pump is "unlocked" (Fig. 1; Col. 2, lines 22-40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the security system of Siegle et al. in view of Oh to work with the fuel pump system taught by Woodall et al. because Siegle et al. in view of Oh teaches a secure control system which restricts access to unauthorized users and Woodall et al. teaches a system in which access to a fuel pump in a vehicle is restricted without the required code thereby increasing the security of the vehicle against theft.

### **Conclusion**

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Hornsby III whose telephone number is (703)305-7444. The examiner can normally be reached on M-F (8:30 A.M.-6:00 P.M.) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703)305-4704. The fax phone numbers for the organization where this application or proceeding is assigned

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are (703)305-3988 for regular communications and (703)305-3988 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Alton Hornsby III *A.H.*  
Assistant Examiner  
Art Unit 2735

ah  
July 13, 2000

**MICHAEL HORABIK**  
**SUPERVISORY PATENT EXAMINER**  
**GROUP 2700**

